

Introduced by Senator Morrell

February 10, 2016

An act to amend Sections 2923.3 and 2924f of, and to amend and repeal Section 2924.11 of, the Civil Code, relating to mortgages.

LEGISLATIVE COUNSEL'S DIGEST

SB 983, as introduced, Morrell. Mortgages and deeds of trust.

Existing law imposes various requirements to be satisfied prior to exercising a power of sale under a mortgage or deed of trust. Existing law, with respect to residential real property containing up to 4 dwelling units, requires a mortgagee, trustee, beneficiary, or authorized agent to provide to the mortgagor or trustor a copy of the recorded notice of default and a copy of the recorded notice of sale.

This bill would instead require the mortgagee, trustee, beneficiary, or authorized agent to provide the mortgagor or trustor with a copy of the notice of default indicating the recording date and a copy of the notice of sale indicating the recording date.

Existing law, before any sale of property can be made under the power of sale contained in any deed of trust or mortgage, requires notice of the sale to be given. Existing law requires the notice of sale to contain specified information regarding the property and the sale, and to be recorded with the county recorder, as specified. Existing law, on and after April 1, 2012, also requires the notice of sale to contain language notifying potential bidders of specified risks involved in bidding on property at a trustee's sale.

This bill would revise the language notifying potential bidders of specified risks involved in bidding at a trustee's sale.

Existing law requires a mortgagee, beneficiary, or authorized agent to record a rescission of a notice of default or cancel a pending trustee

sale, if applicable, upon the borrower executing a permanent foreclosure prevention alternative. Existing law, in the case of a short sale, requires the rescission or cancellation of the pending trustee's sale to occur when the short sale has been approved and proof of funds or financing has been provided, as specified.

This bill would make a clarifying change by eliminating the reference to rescission in the case of a pending trustee's sale.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2923.3 of the Civil Code is amended to
2 read:

3 2923.3. (a) With respect to residential real property containing
4 no more than four dwelling units, a mortgagee, trustee, beneficiary,
5 or authorized agent shall provide to the mortgagor or trustor a copy
6 of the ~~recorded~~ notice of default *indicating the recording date* with
7 an attached separate summary document of the notice of default
8 in English and the languages described in Section 1632, as set
9 forth in subdivision (c), and a copy of the ~~recorded~~ notice of sale
10 *indicating the recording date* with an attached separate summary
11 document of the information required to be contained in the notice
12 of sale in English and the languages described in Section 1632, as
13 set forth in subdivision (d). These summaries are not required to
14 be recorded or published. This subdivision shall become operative
15 on April 1, 2013, or 90 days following the issuance of the
16 translations by the Department of Business Oversight pursuant to
17 subdivision (b), whichever is later.

18 (b) (1) The Department of Business Oversight shall provide a
19 standard translation of the statement in paragraph (1) of subdivision
20 (c), and of the summary of the notice of default, as set forth in
21 paragraph (2) of subdivision (c) in the languages described in
22 Section 1632.

23 (2) The Department of Business Oversight shall provide a
24 standard translation of the statement in paragraph (1) of subdivision
25 (d), and of the summary of the notice of sale, as set forth in
26 paragraph (2) of subdivision (d).

27 (3) The department shall make the translations described in
28 paragraphs (1) and (2) available without charge on its Internet Web

1 site. Any mortgagee, trustee, beneficiary, or authorized agent who
2 provides the department's translations in the manner prescribed
3 by this section shall be in compliance with this section.

4 (c) (1) The following statement shall appear in the languages
5 described in Section 1632 at the beginning of the notice of default:
6

7 NOTE: THERE IS A SUMMARY OF THE INFORMATION
8 IN THIS DOCUMENT ATTACHED.
9

10 (2) The following summary of key information shall be attached
11 to the copy of the notice of default provided to the mortgagor or
12 trustor:
13

14 SUMMARY OF KEY INFORMATION

15 The attached notice of default was sent to [name of the trustor],
16 in relation to [description of the property that secures the mortgage
17 or deed of trust in default]. This property may be sold to satisfy
18 your obligation and any other obligation secured by the deed of
19 trust or mortgage that is in default. [Trustor] has, as described in
20 the notice of default, breached the mortgage or deed of trust on
21 the property described above.

22 IMPORTANT NOTICE: IF YOUR PROPERTY IS IN
23 FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR
24 PAYMENTS, IT MAY BE SOLD WITHOUT ANY COURT
25 ACTION, and you may have the legal right to bring your account
26 in good standing by paying all of your past due payments plus
27 permitted costs and expenses within the time permitted by law for
28 reinstatement of your account, which is normally five business
29 days prior to the date set for the sale of your property. No sale date
30 may be set until approximately 90 days from the date the attached
31 notice of default may be recorded (which date of recordation
32 appears on the notice).

33 This amount is _____ as of ____ (date) _____ and
34 will increase until your account becomes current.

35 While your property is in foreclosure, you still must pay other
36 obligations (such as insurance and taxes) required by your note
37 and deed of trust or mortgage. If you fail to make future payments
38 on the loan, pay taxes on the property, provide insurance on the
39 property, or pay other obligations as required in the note and deed
40 of trust or mortgage, the beneficiary or mortgagee may insist that

1 you do so in order to reinstate your account in good standing. In
2 addition, the beneficiary or mortgagee may require as a condition
3 to reinstatement that you provide reliable written evidence that
4 you paid all senior liens, property taxes, and hazard insurance
5 premiums.

6 Upon your written request, the beneficiary or mortgagee will
7 give you a written itemization of the entire amount you must pay.
8 You may not have to pay the entire unpaid portion of your account,
9 even though full payment was demanded, but you must pay all
10 amounts in default at the time payment is made. However, you
11 and your beneficiary or mortgagee may mutually agree in writing
12 prior to the time the notice of sale is posted (which may not be
13 earlier than three months after this notice of default is recorded)
14 to, among other things, (1) provide additional time in which to
15 cure the default by transfer of the property or otherwise; or (2)
16 establish a schedule of payments in order to cure your default; or
17 both (1) and (2).

18 Following the expiration of the time period referred to in the
19 first paragraph of this notice, unless the obligation being foreclosed
20 upon or a separate written agreement between you and your creditor
21 permits a longer period, you have only the legal right to stop the
22 sale of your property by paying the entire amount demanded by
23 your creditor.

24 To find out the amount you must pay, or to arrange for payment
25 to stop the foreclosure, or if your property is in foreclosure for any
26 other reason, contact:

27 _____
28 (Name of beneficiary or mortgagee)

29 _____
30 (Mailing address)

31 _____
32 (Telephone)

33 If you have any questions, you should contact a lawyer or the
34 governmental agency which may have insured your loan.

35 Notwithstanding the fact that your property is in foreclosure,
36 you may offer your property for sale, provided the sale is concluded
37 prior to the conclusion of the foreclosure.

38 Remember, **YOU MAY LOSE LEGAL RIGHTS IF YOU DO**
39 **NOT TAKE PROMPT ACTION.**

1 If you would like additional copies of this summary, you may
2 obtain them by calling [insert telephone number].

3 (d) (1) The following statement shall appear in the languages
4 described in Section 1632 at the beginning of the notice of sale:

5
6 NOTE: THERE IS A SUMMARY OF THE INFORMATION
7 IN THIS DOCUMENT ATTACHED.

8
9 (2) The following summary of key information shall be attached
10 to the copy of the notice of sale provided to the mortgagor or
11 trustor:

12
13 SUMMARY OF KEY INFORMATION

14 The attached notice of sale was sent to [trustor], in relation to
15 [description of the property that secures the mortgage or deed of
16 trust in default].

17 YOU ARE IN DEFAULT UNDER A (Deed of trust or
18 mortgage) DATED _____. UNLESS YOU TAKE ACTION TO
19 PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A
20 PUBLIC SALE.

21 IF YOU NEED AN EXPLANATION OF THE NATURE OF
22 THE PROCEEDING AGAINST YOU, YOU SHOULD
23 CONTACT A LAWYER.

24 The total amount due in the notice of sale is _____.

25 Your property is scheduled to be sold on [insert date and time
26 of sale] at [insert location of sale].

27 However, the sale date shown on the attached notice of sale may
28 be postponed one or more times by the mortgagee, beneficiary,
29 trustee, or a court, pursuant to Section 2924g of the California
30 Civil Code. The law requires that information about trustee sale
31 postponements be made available to you and to the public, as a
32 courtesy to those not present at the sale. If you wish to learn
33 whether your sale date has been postponed, and, if applicable, the
34 rescheduled time and date for the sale of this property, you may
35 call [telephone number for information regarding the trustee's sale]
36 or visit this Internet Web site [Internet Web site address for
37 information regarding the sale of this property], using the file
38 number assigned to this case [case file number]. Information about
39 postponements that are very short in duration or that occur close
40 in time to the scheduled sale may not immediately be reflected in

1 the telephone information or on the Internet Web site. The best
2 way to verify postponement information is to attend the scheduled
3 sale.

4 If you would like additional copies of this summary, you may
5 obtain them by calling [insert telephone number].

6 (e) Failure to provide these summaries to the mortgagor or
7 trustor shall have the same effect as if the notice of default or notice
8 of sale were incomplete or not provided.

9 (f) This section sets forth a requirement for translation in
10 languages other than English, and a document complying with the
11 provisions of this section may be recorded pursuant to subdivision
12 (b) of Section 27293 of the Government Code. A document that
13 complies with this section shall not be rejected for recordation on
14 the ground that some part of the document is in a language other
15 than English.

16
17 SEC. 2. Section 2924f of the Civil Code is amended to read:

18 2924f. (a) As used in this section and Sections 2924g and
19 2924h, “property” means real property or a leasehold estate therein,
20 and “calendar week” means Monday through Saturday, inclusive.

21 (b) (1) Except as provided in subdivision (c), before any sale
22 of property can be made under the power of sale contained in any
23 deed of trust or mortgage, or any resale resulting from a rescission
24 for a failure of consideration pursuant to subdivision (c) of Section
25 2924h, notice of the sale thereof shall be given by posting a written
26 notice of the time of sale and of the street address and the specific
27 place at the street address where the sale will be held, and
28 describing the property to be sold, at least 20 days before the date
29 of sale in one public place in the city where the property is to be
30 sold, if the property is to be sold in a city, or, if not, then in one
31 public place in the judicial district in which the property is to be
32 sold, and publishing a copy once a week for three consecutive
33 calendar weeks.

34 (2) The first publication to be at least 20 days before the date
35 of sale, in a newspaper of general circulation published in the city
36 in which the property or some part thereof is situated, if any part
37 thereof is situated in a city, if not, then in a newspaper of general
38 circulation published in the judicial district in which the property
39 or some part thereof is situated, or in case no newspaper of general
40 circulation is published in the city or judicial district, as the case

1 may be, in a newspaper of general circulation published in the
2 county in which the property or some part thereof is situated, or
3 in case no newspaper of general circulation is published in the city
4 or judicial district or county, as the case may be, in a newspaper
5 of general circulation published in the county in this state that is
6 contiguous to the county in which the property or some part thereof
7 is situated and has, by comparison with all similarly contiguous
8 counties, the highest population based upon total county population
9 as determined by the most recent federal decennial census
10 published by the Bureau of the Census.

11 (3) A copy of the notice of sale shall also be posted in a
12 conspicuous place on the property to be sold at least 20 days before
13 the date of sale, where possible and where not restricted for any
14 reason. If the property is a single-family residence the posting shall
15 be on a door of the residence, but, if not possible or restricted, then
16 the notice shall be posted in a conspicuous place on the property;
17 however, if access is denied because a common entrance to the
18 property is restricted by a guard gate or similar impediment, the
19 property may be posted at that guard gate or similar impediment
20 to any development community.

21 (4) The notice of sale shall conform to the minimum
22 requirements of Section 6043 of the Government Code and be
23 recorded with the county recorder of the county in which the
24 property or some part thereof is situated at least 20 days prior to
25 the date of sale.

26 (5) The notice of sale shall contain the name, street address in
27 this state, which may reflect an agent of the trustee, and either a
28 toll-free telephone number or telephone number in this state of the
29 trustee, and the name of the original trustor, and also shall contain
30 the statement required by paragraph (3) of subdivision (c). In
31 addition to any other description of the property, the notice shall
32 describe the property by giving its street address, if any, or other
33 common designation, if any, and a county assessor's parcel
34 number; but if the property has no street address or other common
35 designation, the notice shall contain a legal description of the
36 property, the name and address of the beneficiary at whose request
37 the sale is to be conducted, and a statement that directions may be
38 obtained pursuant to a written request submitted to the beneficiary
39 within 10 days from the first publication of the notice. Directions
40 shall be deemed reasonably sufficient to locate the property if

1 information as to the location of the property is given by reference
2 to the direction and approximate distance from the nearest
3 crossroads, frontage road, or access road. If a legal description or
4 a county assessor's parcel number and either a street address or
5 another common designation of the property is given, the validity
6 of the notice and the validity of the sale shall not be affected by
7 the fact that the street address, other common designation, name
8 and address of the beneficiary, or the directions obtained therefrom
9 are erroneous or that the street address, other common designation,
10 name and address of the beneficiary, or directions obtained
11 therefrom are omitted.

12 (6) The term "newspaper of general circulation," as used in this
13 section, has the same meaning as defined in Article 1 (commencing
14 with Section 6000) of Chapter 1 of Division 7 of Title 1 of the
15 Government Code.

16 (7) The notice of sale shall contain a statement of the total
17 amount of the unpaid balance of the obligation secured by the
18 property to be sold and reasonably estimated costs, expenses,
19 advances at the time of the initial publication of the notice of sale,
20 and, if republished pursuant to a cancellation of a cash equivalent
21 pursuant to subdivision (d) of Section 2924h, a reference of that
22 fact; provided, that the trustee shall incur no liability for any good
23 faith error in stating the proper amount, including any amount
24 provided in good faith by or on behalf of the beneficiary. An
25 inaccurate statement of this amount shall not affect the validity of
26 any sale to a bona fide purchaser for value, nor shall the failure to
27 post the notice of sale on a door as provided by this subdivision
28 affect the validity of any sale to a bona fide purchaser for value.

29 (8) (A) On and after April 1, 2012, if the deed of trust or
30 mortgage containing a power of sale is secured by real property
31 containing from one to four single-family residences, the notice
32 of sale shall contain substantially the following language, in
33 addition to the language required pursuant to paragraphs (1) to (7),
34 inclusive:

35
36 NOTICE TO POTENTIAL BIDDERS: If you are considering
37 bidding on this ~~property lien~~, *property*, you should understand that
38 there are risks involved in bidding at a trustee auction. ~~You will~~
39 ~~be bidding on a lien, not on the property itself.~~ Placing the highest
40 bid at a trustee auction does not automatically entitle you to free

1 and clear ownership of the property. You should also be aware
2 that the lien being ~~auctioned off~~ *foreclosed by this auction* may be
3 a junior lien. If you are the highest bidder at the auction, you are
4 or may be responsible for paying off all liens senior to the lien
5 being ~~auctioned off~~, *foreclosed*, before you can receive clear title
6 to the property. You are encouraged to investigate the existence,
7 priority, and size of outstanding liens that may exist on this
8 property by contacting the county recorder's office or a title
9 insurance company, either of which may charge you a fee for this
10 information. If you consult either of these resources, you should
11 be aware that the same lender may hold more than one mortgage
12 or deed of trust on the property.

13
14 NOTICE TO PROPERTY OWNER: The sale date shown on
15 this notice of sale may be postponed one or more times by the
16 mortgagee, beneficiary, trustee, or a court, pursuant to Section
17 2924g of the California Civil Code. The law requires that
18 information about trustee sale postponements be made available
19 to you and to the public, as a courtesy to those not present at the
20 sale. If you wish to learn whether your sale date has been
21 postponed, and, if applicable, the rescheduled time and date for
22 the sale of this property, you may call [telephone number for
23 information regarding the trustee's sale] or visit this Internet Web
24 site [Internet Web site address for information regarding the sale
25 of this property], using the file number assigned to this case [case
26 file number]. Information about postponements that are very short
27 in duration or that occur close in time to the scheduled sale may
28 not immediately be reflected in the telephone information or on
29 the Internet Web site. The best way to verify postponement
30 information is to attend the scheduled sale.

31
32 (B) A mortgagee, beneficiary, trustee, or authorized agent shall
33 make a good faith effort to provide up-to-date information
34 regarding sale dates and postponements to persons who wish this
35 information. This information shall be made available free of
36 charge. It may be made available via an Internet Web site, a
37 telephone recording that is accessible 24 hours a day, seven days
38 a week, or through any other means that allows 24 hours a day,
39 seven days a week, no-cost access to updated information. A
40 disruption of any of these methods of providing sale date and

1 postponement information to allow for reasonable maintenance or
2 due to a service outage shall not be deemed to be a violation of
3 the good faith standard.

4 (C) Except as provided in subparagraph (B), nothing in the
5 wording of the notices required by subparagraph (A) is intended
6 to modify or create any substantive rights or obligations for any
7 person providing, or specified in, either of the required notices.
8 Failure to comply with subparagraph (A) or (B) shall not invalidate
9 any sale that would otherwise be valid under ~~Section 2924f~~. *this*
10 *section*.

11 (D) Information provided pursuant to subparagraph (A) does
12 not constitute the public declaration required by subdivision (d)
13 of Section 2924g.

14 (9) If the sale of the property is to be a unified sale as provided
15 in subparagraph (B) of paragraph (1) of subdivision (a) of Section
16 9604 of the Commercial Code, the notice of sale shall also contain
17 a description of the personal property or fixtures to be sold. In the
18 case where it is contemplated that all of the personal property or
19 fixtures are to be sold, the description in the notice of the personal
20 property or fixtures shall be sufficient if it is the same as the
21 description of the personal property or fixtures contained in the
22 agreement creating the security interest in or encumbrance on the
23 personal property or fixtures or the filed financing statement
24 relating to the personal property or fixtures. In all other cases, the
25 description in the notice shall be sufficient if it would be a
26 sufficient description of the personal property or fixtures under
27 Section 9108 of the Commercial Code. Inclusion of a reference to
28 or a description of personal property or fixtures in a notice of sale
29 hereunder shall not constitute an election by the secured party to
30 conduct a unified sale pursuant to subparagraph (B) of paragraph
31 (1) of subdivision (a) of Section 9604 of the Commercial Code,
32 shall not obligate the secured party to conduct a unified sale
33 pursuant to subparagraph (B) of paragraph (1) of subdivision (a)
34 of Section 9604 of the Commercial Code, and in no way shall
35 render defective or noncomplying either that notice or a sale
36 pursuant to that notice by reason of the fact that the sale includes
37 none or less than all of the personal property or fixtures referred
38 to or described in the notice. This paragraph shall not otherwise
39 affect the obligations or duties of a secured party under the
40 Commercial Code.

(c) (1) This subdivision applies only to deeds of trust or mortgages which contain a power of sale and which are secured by real property containing a single-family, owner-occupied residence, where the obligation secured by the deed of trust or mortgage is contained in a contract for goods or services subject to the provisions of the Unruh Act (Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3).

(2) Except as otherwise expressly set forth in this subdivision, all other provisions of law relating to the exercise of a power of sale shall govern the exercise of a power of sale contained in a deed of trust or mortgage described in paragraph (1).

(3) If any default of the obligation secured by a deed of trust or mortgage described in paragraph (1) has not been cured within 30 days after the recordation of the notice of default, the trustee or mortgagee shall mail to the trustor or mortgagor, at his or her last known address, a copy of the following statement:

YOU ARE IN DEFAULT UNDER A

_____,

(Deed of trust or mortgage)

DATED _____. UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDING AGAINST YOU, YOU SHOULD CONTACT A LAWYER.

(4) All sales of real property pursuant to a power of sale contained in any deed of trust or mortgage described in paragraph (1) shall be held in the county where the residence is located and shall be made to the person making the highest offer. The trustee may receive offers during the 10-day period immediately prior to the date of sale and if any offer is accepted in writing by both the trustor or mortgagor and the beneficiary or mortgagee prior to the time set for sale, the sale shall be postponed to a date certain and prior to which the property may be conveyed by the trustor to the person making the offer according to its terms. The offer is revocable until accepted. The performance of the offer, following acceptance, according to its terms, by a conveyance of the property to the offeror, shall operate to terminate any further proceeding under the notice of sale and it shall be deemed revoked.

(5) In addition to the trustee fee pursuant to Section 2924c, the trustee or mortgagee pursuant to a deed of trust or mortgage subject to this subdivision shall be entitled to charge an additional fee of fifty dollars (\$50).

(6) This subdivision applies only to property on which notices of default were filed on or after the effective date of this subdivision.

(d) With respect to residential real property containing no more than four dwelling units, a separate document containing a summary of the notice of sale information in English and the languages described in Section 1632 shall be attached to the notice of sale provided to the mortgagor or trustor pursuant to Section 2923.3.

SEC. 3. Section 2924.11 of the Civil Code, as added by Section 14 of Chapter 86 of the Statutes of 2012, is amended to read:

2924.11. (a) If a foreclosure prevention alternative is approved in writing prior to the recordation of a notice of default, a mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent shall not record a notice of default under either of the following circumstances:

(1) The borrower is in compliance with the terms of a written trial or permanent loan modification, forbearance, or repayment plan.

(2) A foreclosure prevention alternative has been approved in writing by all parties, including, for example, the first lien investor, junior lienholder, and mortgage insurer, as applicable, and proof of funds or financing has been provided to the servicer.

(b) If a foreclosure prevention alternative is approved in writing after the recordation of a notice of default, a mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent shall not record a notice of sale or conduct a trustee's sale under either of the following circumstances:

(1) The borrower is in compliance with the terms of a written trial or permanent loan modification, forbearance, or repayment plan.

(2) A foreclosure prevention alternative has been approved in writing by all parties, including, for example, the first lien investor, junior lienholder, and mortgage insurer, as applicable, and proof of funds or financing has been provided to the servicer.

1 (c) When a borrower accepts an offered first lien loan
2 modification or other foreclosure prevention alternative, the
3 mortgage servicer shall provide the borrower with a copy of the
4 fully executed loan modification agreement or agreement
5 evidencing the foreclosure prevention alternative following receipt
6 of the executed copy from the borrower.

7 (d) A mortgagee, beneficiary, or authorized agent shall record
8 a rescission of a notice of default or cancel a pending trustee's
9 sale, if applicable, upon the borrower executing a permanent
10 foreclosure prevention alternative. In the case of a short sale, the
11 ~~reseission~~ or cancellation of the pending trustee's sale shall occur
12 when the short sale has been approved by all parties and proof of
13 funds or financing has been provided to the mortgagee, beneficiary,
14 or authorized agent.

15 (e) The mortgage servicer shall not charge any application,
16 processing, or other fee for a first lien loan modification or other
17 foreclosure prevention alternative.

18 (f) The mortgage servicer shall not collect any late fees for
19 periods during which a complete first lien loan modification
20 application is under consideration or a denial is being appealed,
21 the borrower is making timely modification payments, or a
22 foreclosure prevention alternative is being evaluated or exercised.

23 (g) If a borrower has been approved in writing for a first lien
24 loan modification or other foreclosure prevention alternative, and
25 the servicing of that borrower's loan is transferred or sold to
26 another mortgage servicer, the subsequent mortgage servicer shall
27 continue to honor any previously approved first lien loan
28 modification or other foreclosure prevention alternative, in
29 accordance with the provisions of the act that added this section.

30 (h) This section shall apply only to mortgages or deeds of trust
31 described in Section 2924.15.

32 (i) This section shall not apply to entities described in
33 subdivision (b) of Section 2924.18.

34 (j) This section shall remain in effect only until January 1, 2018,
35 and as of that date is repealed, unless a later enacted statute, that
36 is enacted before January 1, 2018, deletes or extends that date.

37 SEC. 4. Section 2924.11 of the Civil Code, as added by Section
38 14 of Chapter 87 of the Statutes of 2012, is repealed.

39 ~~2924.11. (a) If a foreclosure prevention alternative is approved~~
40 ~~in writing prior to the recordation of a notice of default, a mortgage~~

servicer, mortgagee, trustee, beneficiary, or authorized agent shall not record a notice of default under either of the following circumstances:

(1) The borrower is in compliance with the terms of a written trial or permanent loan modification, forbearance, or repayment plan.

(2) A foreclosure prevention alternative has been approved in writing by all parties, including, for example, the first lien investor, junior lienholder, and mortgage insurer, as applicable, and proof of funds or financing has been provided to the servicer.

(b) If a foreclosure prevention alternative is approved in writing after the recordation of a notice of default, a mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent shall not record a notice of sale or conduct a trustee's sale under either of the following circumstances:

(1) The borrower is in compliance with the terms of a written trial or permanent loan modification, forbearance, or repayment plan.

(2) A foreclosure prevention alternative has been approved in writing by all parties, including, for example, the first lien investor, junior lienholder, and mortgage insurer, as applicable, and proof of funds or financing has been provided to the servicer.

(c) When a borrower accepts an offered first lien loan modification or other foreclosure prevention alternative, the mortgage servicer shall provide the borrower with a copy of the fully executed loan modification agreement or agreement evidencing the foreclosure prevention alternative following receipt of the executed copy from the borrower.

(d) A mortgagee, beneficiary, or authorized agent shall record a rescission of a notice of default or cancel a pending trustee's sale, if applicable, upon the borrower executing a permanent foreclosure prevention alternative. In the case of a short sale, the rescission or cancellation of the pending trustee's sale shall occur when the short sale has been approved by all parties and proof of funds or financing has been provided to the mortgagee, beneficiary, or authorized agent.

(e) The mortgage servicer shall not charge any application, processing, or other fee for a first lien loan modification or other foreclosure prevention alternative.

1 ~~(f) The mortgage servicer shall not collect any late fees for~~
2 ~~periods during which a complete first lien loan modification~~
3 ~~application is under consideration or a denial is being appealed,~~
4 ~~the borrower is making timely modification payments, or a~~
5 ~~foreclosure prevention alternative is being evaluated or exercised.~~

6 ~~(g) If a borrower has been approved in writing for a first lien~~
7 ~~loan modification or other foreclosure prevention alternative, and~~
8 ~~the servicing of that borrower's loan is transferred or sold to~~
9 ~~another mortgage servicer, the subsequent mortgage servicer shall~~
10 ~~continue to honor any previously approved first lien loan~~
11 ~~modification or other foreclosure prevention alternative, in~~
12 ~~accordance with the provisions of the act that added this section.~~

13 ~~(h) This section shall apply only to mortgages or deeds of trust~~
14 ~~described in Section 2924.15.~~

15 ~~(i) This section shall not apply to entities described in~~
16 ~~subdivision (b) of Section 2924.18.~~

17 ~~(j) This section shall remain in effect only until January 1, 2018,~~
18 ~~and as of that date is repealed, unless a later enacted statute, that~~
19 ~~is enacted before January 1, 2018, deletes or extends that date.~~